



The Energy and Technology Committee

Public Hearing, March 5, 2019

Office of Consumer Counsel

Elin Swanson Katz, Consumer Counsel

Testimony of Elin Swanson Katz

Governor's Bill No. 7152

An Act Accelerating The Deployment Of 5g Wireless Facilities.

The Office of Consumer Counsel (OCC), including the State Broadband Office (SBO) located within the OCC, enthusiastically supports Governor's Bill No. 7152, An Act Accelerating The Deployment of 5g Wireless Facilities, with the language change to Section 2 noted below. This bill provides a reasonable answer to the national debate presently addressing governance of small wireless facilities implementation that is occurring across the US and Connecticut, in preparation for an eventual rollout of 5G cellular technology.

In Section 1, the proposed bill contains provisions to expand the window for evaluating 5G deployment applications with regard to state real properties, to coordinate state agency responses to wireless applications for small wireless facilities, and proposes a possible balancing of interests among state and local government issues created by the examinations required of the impact that construction, modification or installation of broadcasting facilities may have on the public health, safety and welfare of the local community.

This last issue is central to the national debate presently engaged in by federal, state, and local governments, the result of which will largely dictate how quickly this country can implement 5G when it becomes more available for marketing.

OCC requests an amendment to the language of Section 2 of G.B. 7152, which we believe based on discussions with the Governor's staff will be supported by the Administration. This section orders that the Office of Policy and Management (OPM), in consultation with the Public Utilities Regulatory Authority (PURA) and the Connecticut Siting Council (CSC), shall work with municipalities to establish a process for siting

small wireless facilities on municipal property and, with the permission of the property owner, private property where the use of utility or light poles is insufficient.

Because of our work on broadband deployment over the last decade, and more recent collaborations with over one hundred of the state municipalities, OCC asks that we be included in the list of entities with whom OPM consults, so that it would read:

“The Office of Policy and Management, in consultation with the Public Utilities Regulatory Authority, the Office of Consumer Counsel and the State Broadband Office, and the Connecticut Siting Council, shall....”

We support this bill as the time for action is now. The global race for 5G dominance has begun as broadband providers jockey to become the industry leader as the technology moves toward becoming feasible. As broadband providers push to deploy thousands of small cell sites in communities nationwide, state and local governments are tasked with evaluating every proposed site. 5G deployment will require telecommunications providers to install hundreds of thousands of small cells across the country to construct 5G networks. While 5G remains an evolving technology that will entail some years of standardization negotiations and industry reconfigurations before marketing becomes widespread, companies are moving toward developing small cell technology and increasing fiber network builds in support of the eventual deployments.

The OCC notes that this technology will rely on fiber networks to transport the enormous data produced across the cellular network. The SBO is exploring empowerment and financial structures to enable municipalities to create the underpinning fiber networks that are essential to the eventual deployment of 5G cellular technology across Connecticut. 5G's reliance on a large network of small cell sites will place a considerable administrative strain on governments' ability to process the exponential increase in applications for small cells from service providers.

Connecticut has already seen hundreds of applications filed with PURA from a variety of wireless companies for small cell implementations across the state. While the majority of these applications have quickly moved forward to implementation through the creation of a single administrative docket (17-02-49) by PURA, building on existing statutory (C.G.A. § 16-234) and regulatory orders to create a small cell specific process, some have resulted in administrative appeals before the superior court. These appeals have generally been quickly resolved, either through settlements (e.g., the provider moving the proposed location) or by court orders in favor of the sitings, there remains a strong concern among citizens and municipalities about the loss of control, radio frequency radiation concerns, and aesthetic issues.

The vast majority of these small cell sites, which again may well support 5G deployment in the future, will be located on locally-owned public rights-of-way, which requires providers to submit applications for state government review in Connecticut by PURA. Other states allow municipalities a regulatory role in the siting of small cell technology, which of course introduces a level of potential delay and expenses as very local concerns become magnified.

Over 20 state legislatures have passed legislation that will preempt local zoning authority in preparation for the 5G buildout. The enacted provisions will allow providers to curtail local zoning authority and install small cell technology in public rights-of-way while also placing a cap on fees associated with maintenance costs.

On September 26, 2018, the FCC approved the Streamlining Deployment of Next Generation Wireless Infrastructure Declaratory Ruling and Third Report and Order on a 3-to-1 vote. The order limits fees local governments are able to assess on telecommunications companies for the placement, construction or co-location of new wireless service facilities. Additionally, the ruling provides local governments only 60 days to evaluate applications from wireless companies to attach 5G small cells to existing structures and just 90 days to review applications for equipment on entirely new structures. These “shot clocks” effectively prevent local governments from properly evaluating and assessing 5G deployment applications and forces a rubber-stamp approval process in fear of crippling litigation from communication providers.

There thus remains a huge debate among many varied interests in these early days in the development of 5G cellular technology. Along with the global standards needed to address the actual hardware and radio spectrum issues that need to be resolved prior to rollout, equally important will be a streamlining of the regulatory processes necessary for allowing for expedited, efficient, and low cost implementation of the infrastructure on the ground.

We believe this bill will provide an appropriate process to have that debate.